

## Comments Received April 10 – April 21, 2006

Comment:

**The multiple licensing of loan officers under different brokers:** I understand that it can be a hassle to keep track of this. I suggest we take a lesson from the real estate industry. The Wa Realtors and MLS side send out periodic report called a "BVR" for Broker Verification Report. The broker to are responsible for verify the names of all their Realtors who work for them, make additions and/or deletions. The real estate industry sends these out monthly. The broker can make changes and send it back or just use it for informational purposes. Once a year in January the broker must sign it and return it or be fined \$500.

**The cost and practice of multiple licenses.** I feel the cost to be "registered" under a second broker if already "licensed" under one broker should reflect fees appropriate to the work. Presuming they have been fully licensed including background etc... The cost of the next license is just an administrative process to "register" them. Fees should not reflect the same amount of work that went into the initial full process. I would guess somewhere between a third and a half of the initial licensing fee.

**Broker Verification Report:** A simple report from the database to each licensed mortgage broker listing names registered under their license may save work at DFI trying to keep things straight. This also gives DFI accountability to the Broker for cases where they may have un-licensed originators working for them. It removes broker excuses. A column added next to each originators name could show any other broker they are registered with. This type of process puts the responsibility on the industry to help DFI keep it's database straight.

Another idea is to add a license number slot for the originator to one of the disclosure forms or perhaps a separate sheet with the originator disclosing their license number. Wholesale lenders could not process the file unless it had a number. I have spoken to various lenders and they said "if was a law/rule of the state, they would have to verify the # and comply". This could greatly aid in compliance without using more of DFI's resources.

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Comment:

A few comments regarding what was discussed at the last meeting:

**The amount of the bond:** The dept should look at past claims against broker bonds to determine if adjustments need to be made to the level of bonding required.

**A LO moving from one company to another:** we need to make sure we don't infringe on the rights of the LO to get paid on loans originated and not yet closed with their old company. There is an issue regarding when compensation is earned, but an owner, upon learning of an application for a job change, could prematurely terminate an LO in order to not pay commissions that would be earned if the LO was allowed to close out their pipeline. I would propose a delay in the

posting of "new company" information for 30-45 days to allow the LO to make a smooth transition to the new firm.

**The cost to change a license:** This should be the dept's actual cost of making the change. I can't imagine it should cost any more than \$20-25.

**Cost of additional licenses for one LO:** It is highly unlikely that there will be a significant number of LO's requiring multi-company licenses. When an additional license is required, it is usually because the LO will have the opportunity to make more money on certain types of loans at another firm. The extra \$125 won't be a barrier to that decision. If I may use another licensing example, look at auto licensing. Are discounts given by DOL when you license a second car under your name?

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Comment:

Please clarify for me the educational requirements for mortgage lenders in Washington. We have students calling us asking questions about this and I want to make sure we are giving correct and current information.

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Comment:

I'm an attorney currently licensed with the Washington State Bar Association. I was suspended for 60 days beginning in January of 2003. I had some personal problems about 5 years ago which led to some poor judgment in several decisions I made when I closed my law practice in Olympia during the first months of 2001. In late 2002, I stipulated to the 60 days suspension with the Bar Association rather than fight it.

Since the latter half of 2001, I have been working as a loan officer in State of Washington. I have been very successful and can provide stellar recommendations from employers and mortgage brokers I have worked for and who I currently work for.

Section 20 (I believe that's the section), which is part of the revisions to the Mortgage Broker Practices Act--Engrossed House Bill 2340--states, in part, that in order to obtain a Loan Originator's license, the applicant shall not have a professional license suspended in the past 5 years under this section "or a similar state statute." Does my suspension, which will have occurred 4 years from January 2007 when these new rules go into effect, preclude me from obtaining a loan originator's license in Washington State?

Given my professional background as an attorney, this new specific section of the statute looks very blunt and unconditional on its face. A strict interpretation of this new rule would seem to preclude me from obtaining a loan originators license unless this new rule is interpreted that the state legislature did not intend that the WA laws governing the licensing of attorneys to be a "similar state statute" to the Mortgage Broker Practices Act.

I made the transition from practicing attorney to loan officer/originator irrespective of the problems I was having with the WA State Bar Association's Office of Disciplinary Counsel 4-5

years ago. I thoroughly enjoy and value my career as a loan originator and would be extremely disappointed if a few incidents which occurred during a brief and isolated period of time caused my loan originator career to come to a halt for at least one year, due to these newly enacted requirements in Mortgage Brokers Practices Act. The possibility of me having to cease work as a loan officer in Washington State seems very unfair and almost unimaginable to me.

I would appreciate some feedback as soon as possible. Clearly if there is a significant possibility I could be denied a Washington loan originator license next year, I will have to take measures to possibly alter my career path and/or consult an attorney to possibly appeal my denial of a loan originator license to an administrative judge/hearing.

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Comment:

Comment delivered on 11/10/05 by Richard Hagar. Submitted by CC on 4/13/06:

Summary:

A significant contributing factor to the ongoing mortgage fraud and pressure on appraisers is the lack of knowledge on the part of most loan officers. There is a disconnect between federal guidelines and requirements and the mortgage originator. Appraisers are concerned that the lending industry thinks that laws and guidelines on appraisals do not apply to them. Loan officers frequently say: "I want to make sure the appraiser can make value before I order an appraisal and spend \$400." This is a solicitation to an appraiser to commit a crime.

The solution to this problem is including USPAP standards in the law or rules (Standards 203 and AO-19). Suggestion for language: "It is illegal for any mortgage broker, loan officer, processor, employee, their agent(s), or subagent(s) to ask the appraiser, or appraisal firm, or included in an appraisal order or request (verbal or written) any of the following terms:

- The appraiser must provide an appraisal with a minimum value of \$\_\_\_\_\_.
- Please call and notify if it is not possible to support a value at or above \$\_\_\_\_\_, before you proceed."

Additional examples not included. CC has hardcopy of comment.

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Comment:

Comment received 11/19/05 from John Neubauer, SRA and submitted by CC on 4/13/06:

Summary:

Concerned with MBs asking appraisers for a predetermined value. "I believe Washington . . . through written law need to inform [the lending industry] that it is clearly illegal to ask for a 'predetermined value.' Penalties should be in place for first offenders and harsh penalties for repeat offenders.

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Comment:

Comment dated 2/15/06 submitted to CC by Chuck Munson, President Seattle Chapter of Appraiser Association:

Summary:

Bribes are uncommon. Among residential appraisers, however, non-payment and threats to withhold payment are prevalent. The appraisers would like to strengthen the rule covering this area in order to enable DFI to more readily discipline MBs who attempt to influence appraiser opinions by either withholding or threatening to withhold payment for appraisal services.

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Comment:

My belief is that Loan Originators, whether hired as employees or as Independent Contractors, should represent the Mortgage Broker's interests, values, business. By forcing Mortgage Brokers to allow LOs to hang their licenses with competing Mortgage Brokers is a HUGE conflict of interest.

Comment is in regards to LOs being truly independent contractors. I am aware of a few situations where Mortgage Brokers have multiple branch locations; I am in favor of allowing the licensees to conduct business from any location in which the Mortgage Broker holds a license thus not requiring the LO to obtain multiple licensing for the same Mortgage Broker.

Disregard this if I am wrong in my understanding of the new law; Mortgage brokers are still held responsible for the bonding and any adverse actions even with the licensing of LOs. Unless it is the intention of the law to make LOs be held responsible for their actions and not the Mortgage Broker, and require them to obtain their own bonding like Real Estate Agents; I do not believe it would be fair for Mortgage Brokers that LOs be allowed to hang their licenses with multiple Mortgage Brokers. As I understand it Real Estate Agents aren't allowed that under current laws due to conflict of interest. Yet they are considered independent contractors. Insurance Agents are considered 1099 independent contractors but yet they are employed by only ONE Broker at any given time. Also, tied into my initial comment above, since the new law actually redefines the term 'independent contractor', and specifically states that they are '...not subject to the other's right of control, ...' It seems clear that this was meant to require LOs who act as such (independent contractors), obtain and hold their own Bond.

Else a rule must be established to where the Mortgage Broker is allowed to enact a 'non-compete' clause with the Independent Contractor.

I also think there is a conflict in the law itself, Sec. 6 (2) indicates that any contract entered by a LO shall be binding on the mortgage broker. How is this possible? I think the commission needs to seriously address this issue.

Another comment in regards to whether or not LOs be able to operate their businesses independently. I would hope the obvious answer to this is 'NO'. see above comments.

Comment on Office locations -

Loan Originators work for Mortgage Brokers, whether as Independent Contractors or as employees, and should not be allowed to differentiate or act independently of the Mortgage Broker company which they were hired to represent. see above comments.

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Comment:

I am extremely enthusiastic about this change. I have been in the mortgage industry for nineteen years and I have been embarrassed by the lack of training and professionalism, not to mention ethics, that exist in this industry. I think companies should have to register their training procedures with the state and I think loan officers need to be tested and licensed throughout their careers. I also think there needs to be some central place to report ethics violations to the state, so that loan officers cannot just move from company to company and continue with their poor business practices which are detrimental to borrowers and the reputation of our industry. This can't happen soon enough.

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Comment:

In the real estate world there are agents and brokers. In the mortgage broker community it appears the legal terminology is going to be loan originators and brokers. After Jan of 2007 will it be necessary for brokers to standardize their title/language in communicating with the public by using the term "loan originator" only in referring to individuals who are now currently known by a variety of different terms such as Loan Officers/Loan Advisors/Loan Counselors .... etc ?

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Comment:

I have Loan Officers in Oregon and Washington. Oregon requires that Loan Officers be certified, and requires clock hour classes.

It was mentioned in the last meeting that consideration would be made to allow Loan Officers in other states to use those clock hours towards the requirements to obtain a Washington license for a Loan Officer. I am hoping that this will be the case.

I applaud the issue of having Loan Officers licensed! (I also hope that we will not make it easy or inexpensive for Loan Officers to have their license hanging in multiple locations.)

I thank you for attempting to make the rules easier to understand and less duplications! I know that this is not going to be an easy process.